

***Priority/Declaration***

Receipt is acknowledged of papers filed under 35 U.S.C. 119 (a)-(d) based on an application filed in Germany on January 23, 2004. Applicant has not complied with the requirements of 37 CFR 1.63(c), since the oath, declaration or application data sheet does not accurately acknowledge the filing of any foreign application. The date of filing of the German application on the executed declaration received January 17, 2008 is improperly stated as being January 24, 2004, off by one day. A new oath or declaration is required in the body of which the present application should be identified by application number and filing date.

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) **identifying this application by application number and filing date is required**. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not identify the foreign application for patent or inventor's certificate on which priority is claimed pursuant to 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month and year of its filing.

As indicated above, German application 10 2004 003 511.3 isn't properly identified in the declaration because the filing date is listed as January 24, 2004 while the date provided on the German application itself is January 23, 2004. The date, January 23, 2004, is consistent with the PCT documentation. The foreign priority document must be accurately identified in the declaration. **Applicant must correct the filing date of German application 10 2004 003 511.3 in the new oath or declaration.**

Applicant is now required to submit a substitute declaration or oath to correct the deficiencies set forth in this communication. The substitute oath or declaration must be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability" (PTO-37). Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136. Failure to timely file the substitute declaration (or oath) will result in **ABANDONMENT** of the application. The transmittal letter accompanying the declaration (or oath) should indicate the date of the "Notice of Allowance" (PTOL-85) and the application number in the upper right hand corner.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES BRITTAIN whose telephone number is (571)272-7065. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on (571) 272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3677

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JAMES BRITTAIN/  
Primary Examiner, Art Unit 3677

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